

BOARD OF APPEALS CASE NO. 5091

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BEFORE THE

APPLICANT: Ruby L. Oliver

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ZONING HEARING EXAMINER

REQUEST: Variance to enlarge a non-conforming trailer more than 50% larger than the existing trailer; 1940 Park Beach Drive, Aberdeen

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 10/11/00 & 10/18/00

HEARING DATE: November 27, 2000

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Record: 10/13/00 & 10/20/00

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Ruby L. Oliver, is seeking a variance pursuant to Section 267-21 of the Harford County Code, to enlarge a non-conforming trailer and to be more than fifty percent (50%) larger than the gross square footage of the existing trailer in an R1/Urban Residential District.

The subject property is located at 1940 Park Beach Drive, Aberdeen, Maryland 21001 and is more particularly identified on Tax Map 63, Grid 4A, Parcel 24. The parcel consists of 0.375 acres, is presently zoned R1/Urban Residential and is entirely within the Second Election District.

The Applicant, Ruby Oliver, appeared and testified that she is the owner of the subject parcel which has a trailer on the site that is presently rented to Mr. David Williams and his family. She has had delivered to the site another trailer which is approximately 55 feet in length which they intend to attach to the existing trailer, more than doubling the size of the total dwelling space. The existing trailer was placed there more than 20 years ago and has been a rental property for all or most of that time. The Applicant testified that she owns all of the adjacent lots and all of them have rental trailers on them. She did not believe the addition would have any impact on any of the adjacent properties.

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Mr. David Williams appeared and testified that he rents the subject trailer and lives there with his wife and 3 children. He stated that the existing trailer is very small and his family needs additional space. When joined, the two trailers will allow a configuration of three bedrooms, one kitchen, an additional bathroom and a family room, space adequate for his family. Mr. Williams did not feel that this addition would have any material adverse impact on any neighboring properties since most, if not all of his neighbors occupied trailers of varying size and design. He does not intend any commercial use of the dwelling.

Mr. Anthony McClune appeared on behalf of the Department of Planning and Zoning (the Department). Mr. McClune testified that the parcel is located on the Perryman peninsula, an area where many trailers are found. Directly across the street from this parcel is the Bush River Mobile Home Park. Mr. McClune felt the addition would result in a mobile home of a size and configuration consistent with other mobile homes in the area. Most importantly, Mr. McClune pointed out that the parcel is within the Chesapeake Bay Critical Area and the addition of a mobile home on this parcel results in very minimal disturbance which would be easily mitigated by landscaping. The witness indicated that land uses resulting in minimal disturbance were favored in the Critical Area and were consistent with good planning and zoning practices. In finding the parcel unique, Mr. McClune pointed out that it was in an area of heavy concentration of mobile home uses and was located within the Chesapeake Bay Critical Area. He did not think any adverse impact would result from approval nor did he believe the purpose of the Code would be materially impaired. The Department recommends approval of the subject request.

No persons appeared in opposition to the subject request.

CONCLUSION:

The Applicant is seeking to enlarge a non-conforming use pursuant to Section 267-21 of the Harford County Code. Further, because the enlargement will be more than 50% of the existing dwelling size, the Applicant requires a variance pursuant to Section 267-21B and 267-11 of the Harford County Code.

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Section 267-21 of the Harford County Code provides:

“Enlargement or extension of nonconforming buildings, structures or uses.

The Board may authorize the extension or enlargement of a nonconforming use, with or without conditions, provided that:

- A. The proposed extension or enlargement does not change to a less-restricted and more-intense use.**
- B. The enlargement or extension does not exceed fifty percent (50%) of the gross square footage in use at the time of the creation of the nonconformity.**
- C. The enlargement or extension does not violate the height or coverage regulations for the district.**
- D. The enlargement or extension would not adversely affect adjacent properties, traffic patterns or the surrounding neighborhood.**
- E. The limitations, guides and standards set forth in § 267-9I, Limitations, guides and standards, are considered by the Board.”**

The Harford County Code, pursuant to 267-11 permits variances and provides:

“Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.**
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest.”**

The Hearing Examiner finds that the undisputed testimony of all the witnesses is that (a) the trailer is an existing non-conforming use; (b) the enlargement is more than 50% of the existing use; (c) the parcel is within the Chesapeake Bay Critical Area, and; (d) is an area of Harford County where dwelling units are primarily mobile homes. The proposed addition will have little or no impact on health or safety and will not impair the purpose of the Code. This is a unique property because of its location within the Chesapeake Critical Area and its location in area where mobile homes are the norm and not the exception.

While the Hearing Examiner recognizes that non-conforming uses are generally not favored and it is normally desirable that they cease to exist as soon as practical, it appears that,

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in this area of the County, denial of this request would not have any impact on the existence or non-existence of the non-conformity but would serve only to impose an unreasonable hardship on the occupant, Mr. Williams and his family.

Consequently, the Hearing Examiner recommends approval subject to the following conditions:

1. The Applicant obtain all necessary permits and inspections.
2. The Applicant shall submit a landscaping/mitigation plan to the Department of Planning and Zoning for review and approval.
3. That neither the Applicant, the current tenant or future tenants be permitted to use the mobile home for any commercial enterprise including storage of commercial materials.

Date **DECEMBER 14, 2000**

William F. Casey
Zoning Hearing Examiner